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Human Rights Committee

Views adopted by the Committee under article 5 (4) of the Optional Protocol, concerning communications No. 2270/2013 and No. 2851/2016*, **

Communication submitted by:	Mohamed Nasheed (represented by counsel, Hassan Latheef and Farah Faizal for communication No. 2270/2013 and Jared Genser and Nicole Santiago for communication No. 2851/2016)
Alleged victim:	The author
State party:	Republic of Maldives
Date of communication:	8 July 2013 (for communication No. 2270/2013) and 7 October 2016 (for communication No. 2851/2016) (initial submission)
Document references:	Decision taken pursuant to rule 97 of the Committee's rules of procedure, transmitted to the State party on 17 July 2013 (for communication No. 2270/2013) and 15 November 2016 (for communication No. 2851/2016) (not issued in document form)
Date of adoption of Views:	4 April 2018
Subject matter:	Participation in presidential elections
Procedural issues:	Consideration of the same matter by another procedure of international investigation; substantiation of claims
Substantive issues:	Fair trial; freedom of association; right to be elected
Articles of the Covenant:	14, 22, 25
Articles of the Optional Protocol:	2 and 5 (2) (a)

1.1 The author of the communications is Nasheed Mohamed, a national of Maldives born on 17 May 1967. The author claims that the State party has violated his rights under

* Adopted by the Committee at its 122nd session (12 March–6 April 2018).

** The following members of the Committee participated in the examination of the present communication: Yadh Ben Achour, Ilze Brands Kehris, Sarah Cleveland, Ahmed Amin Fathalla, Christof Heyns, Yuji Iwasawa, Ivana Jelic, Bamariam Koita, Duncan Laki Muhumuza, Photini Pazartzis, Mauro Politi, José Manuel Santos Pais, Yuval Shany and Margo Waterval.

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articles 14, 22 and 25 of the Covenant. The Optional Protocol entered into force for the State party on 19 December 2006. The author is represented by counsel.

1.2 On 16 July 2013, pursuant to rule 92 of its rules of procedure, the Committee, acting through its Special Rapporteur on new communications and interim measures, decided not to grant interim measures in respect of communication No. 2270/2013.

1.3 On 4 April 2018, pursuant to rule 94 (2) of its rules of procedure, the Committee decided to deal jointly with communications Nos. 2270/2013 and 2851/2016, submitted by the same author, for decision, in view of their substantial factual and legal similarity.

The facts as submitted by the author

2.1 The author was head of the Maldivian Democratic Party and in October 2008 became the first democratically elected president of Maldives. In 2009, the State party's first-ever multiparty parliamentary elections took place. A majority of the parliamentary seats went to supporters of the defeated former President. The author submits that his administration tried to implement political reforms to secure democracy. However, the judiciary remained largely unchanged and, as a result of the influence of judges loyal to the former President, reluctant to promote judicial reforms. In this connection, the author emphasizes that the Constitution of 2008 stipulated the mechanism for the appointment of an independent judiciary, which was to take place within two years of the Constitution being adopted, and that central to the prescribed reforms was the removal of non-qualified judges. The Judicial Service Commission was responsible for assessing the qualifications of the existing judges and reappointing them at the end of the two-year period. By 7 August 2010, the Judicial Service Commission had reappointed 191 out of the 197 judges and magistrates that had been appointed under the former President.[1]

2.2 On 16 January 2012, the Chief Justice of the Criminal Court in Malé, Judge A.M., was detained by the Maldives National Defence Force in relation to complaints of serious misconduct. The author submits that tension between the executive and the judiciary escalated after this detention, and that the political opposition used that tension against him, alleging that he, as Commander-in-Chief of the Maldives National Defence Force, ordered the then-Minister of Defence to detain Judge A.M. The detention of the judge also led to a period of civil unrest in Maldives.

Communication No. 2270/2013

2.3 The author submits that on 7 February 2012, he was forced to resign from office under the threat of violence against him and domestic unrest caused by his political opponents, and that in practice he was forcibly removed from power by members of the police and the army loyal to the former President, in collusion with the Vice-President, who assumed the presidency for the remainder of the term, which ended in November 2013. He states that his forced resignation was also due to the highly controversial detention of the Chief Justice. On the same day that the author was detained, the Chief Justice of the Criminal Court was released. Subsequently, on an unspecified date, the author was released.

2.4 On 9 October 2012, the author was arrested while campaigning on the island of Fares-Maathodaa and was taken to Dhoonidhoo Prison and charged under article 81 of the Penal Code[2] with allegedly abusing his power by ordering the detention of the Chief Justice. The author submits that this was an attempt to prevent him from successfully campaigning for the presidential elections in November 2013. Later, he was released. Afterwards, the author was subjected to ill-treatment and was continually harassed by the authorities.

[1] See A/HRC/23/43/Add.3, paras. 23 and 50, and the Bar Human Rights Committee of England and Wales (BHRC), "The prosecution of former Maldivian president Mohamed Nasheed: report of BHRC's second independent legal observation mission", p. 7.

[2] Article 81 stipulates: "It shall be an offence for any public servant by reason of the authority of office he is in to detain or arrest in a manner contrary to law innocent persons. Person guilty of this offence shall be subjected to exile or imprisonment for a period not exceeding three years or a fine not exceeding Rf. 2,000.00."

2.5 On an unspecified date, the Judicial Service Commission established a special court within Hulhumalé Magistrates' Court (hereinafter referred to as the Magistrates' Court) and appointed three special judges to conduct the author's trial. The author maintains that the Judicial Service Commission was controlled by government parties and government-aligned individuals, as well as members of the judiciary.

2.6 On 4 November 2012, the author filed an application to the High Court of Maldives and challenged, inter alia, the competence and legality of the Magistrates' Court, as well as the composition of the special bench constituted by the Magistrates' Court to try him, since the special bench had no constitutional basis and was not a valid court.[3] Thereafter, he also filed an application before a Civil Court, requesting a judicial review of the decision of the Prosecutor General to file a criminal complaint against him with the Magistrates' Court rather than with the Criminal Court in Malé. Finally, the author claimed that no prosecution had ever been brought under article 81 of the Penal Code and that the charges against him under that article were discriminatory.

2.7 In parallel, the issue of the competence and legality of the Magistrates' Court was pending in another case unrelated to that of the author, which had been before the Civil Court since 2011. The Supreme Court, upon application by the Judicial Service Commission, took over the case being tried by the Civil Court and ordered the High Court to adjourn its hearing in the author's case, pending the Supreme Court's judgment.

2.8 On 5 December 2012, a majority of the Supreme Court held that the Magistrates' Court had been established in accordance with the law and could operate as a court of law. The Supreme Court stated that although Hulhumalé was considered an administrative division of Malé according to the Decentralisation Act (Law No. 7/2010), it was an island with a large population and no superior court; that the presence of the Magistrates' Court was justified because otherwise residents of Hulhumalé would have to travel to another island to resolve their legal disputes; and that, thus, the Magistrates' Court was a "legitimate court", since the Judicature Act (Law No. 22/2010) stated that justice should be dispensed equally and based on the same principles, hence there was no legal basis to discriminate against the inhabitants of Hulhumalé. The author notes that the deciding vote in the case was cast by the Chief Judge of the Supreme Court, who was also the President of the Judicial Service Commission, the body that established the Magistrates' Court.

2.9 On an unspecified date, the author submitted to the High Court that the criminal proceedings against him were politically motivated, and requested that the proceedings be adjourned, in the public interest, until after the presidential elections in September 2013. However, on 4 February 2013, the High Court stated that it was bound to follow the Supreme Court's decision regarding the Magistrates' Court's "legitimacy" and rejected the author's objections of 4 November 2012. Within hours of the judgment, a summons was issued for the author to appear at the Magistrates' Court on 10 February 2013. The author failed to appear in court and an arrest warrant was issued against him.

2.10 On 5 March 2013, the author was arrested and was imprisoned at Dhoonidhoo Prison when he was due to go on a campaigning trip. The author claims that this arrest, as well as the arrest of 9 October 2012, conveniently coincided with campaigning trips.

2.11 On 6 March 2013, the author was brought before the Magistrates' Court. He requested that his trial be adjourned until after the elections in November 2013. The Court denied the request because the author could not be considered to be a presidential candidate.

[3] The author argued, inter alia, that his trial had been moved to a magistrates' court in Hulhumale, away from the island of Malé. However, the island of Hulhumale was part of the administrative district of Malé under the competence of the Criminal Court, and the Magistrates' Court had been unconstitutionally formed without an act of Parliament, as required under article 141 (a) of the Constitution. Instead, the Magistrates' Court was established by the Judicial Service Commission, though this was not one of the Judicial Service Commission's powers as stipulated in articles 157 (a) and 159 of the Constitution and section 21 of the Judicial Service Commission Act (Law No. 10/2008). Further, the author argued that the Magistrates' Court bench was composed of three special judges who had been appointed by the Judicial Service Commission unlawfully.

as the candidates would not be officially declared by the Elections Commission until July 2013.

2.12 On 24 March 2013, the author filed a petition with the High Court seeking another adjournment of the trial until after the elections. On 31 March 2013, the High Court suspended the author's trial at the Magistrates' Court pending a determination of the legality of the composition of the Magistrates' Court. The author argues that, on several occasions, his requests to travel to islands in Maldives and abroad were refused by the Magistrates' Court and by government agencies such as the Department of Immigration; that on 29 May 2013, a hearing, for which he had had to cut short a campaigning trip, was cancelled three hours before its scheduled start, when a sitting judge took last-minute leave; and that despite his request, he was not provided with a schedule of the court hearings.

2.13 In July 2013, the criminal proceedings against the author for the alleged arrest and detention of the Chief Justice were suspended and no further proceedings took place. At the time that communication No. 2270/2013 was submitted to the Committee, the author claimed that domestic remedies were not effective due to the lack of independence and politicization of the judiciary.

2.14 In November 2013, the presidential elections took place. The author narrowly lost to the current president.

Communication No. 2851/2016

2.15 On 16 February 2015, the Prosecutor General withdrew the suspended criminal charges against the author. However, on 22 February 2015, the author was arrested on new charges of terrorism under article 2 (b) of the Prevention of Terrorism Act 1990[4] for his alleged role in arresting and detaining the Chief Justice of the Criminal Court on 16 January 2012.

2.16 The next day, on 23 February 2015, the author's trial commenced in the Criminal Court in Malé. The author alleges that the judicial proceedings did not observe due process and that the Court displayed a lack of impartiality. By way of illustration, he notes that his lawyers were barred from attending the first day of proceedings because they were supposedly required to register with the Court two days before, even though that was impossible given that the author had only been arrested the previous day. The author's request for a 10-day extension so that his lawyers could prepare his defence was summarily dismissed. All the prosecution's evidence was withheld until the time that it was formally introduced to the Court. When evidence was introduced, there was nothing provided to show that the author had actually ordered the arrest of the Chief Justice of the Criminal Court in Malé, nor were there any arguments made explaining how a lawful arrest qualified as "terrorism". The author's opportunity to cross-examine witnesses was limited and he was not permitted to call witnesses in his defence. Faced with these challenges, on 8 March 2015 his lawyers felt compelled to withdraw from the case, believing that their continued representation of him would violate applicable rules of professional responsibility. The Court carried on with the trial, ignoring the author's repeated requests for new legal counsel. On 13 March 2015, less than three weeks after he had been arrested and charged, the author was convicted and sentenced to 13 years' imprisonment with no opportunity for parole or supervised release. The author submits that this verdict was based solely on the evidence presented by the Prosecutor.

2.17 Although the author's counsel had indicated in writing on 15 March 2015 that they intended to appeal, the Criminal Court failed to provide them with the trial record until 24

[4] Article 2 of the Act lists acts and activities that shall be construed as acts of terrorism, and article 2 (b) stipulates that included among such acts and activities is "the act or the intention of kidnapping or abduction of person(s) or of taking hostage(s)". Article 6 (b) stipulates as follows: Any person(s) found guilty of an act of terrorism, without loss of life, shall be sentenced to between 10 and 15 years' imprisonment or banishment. The same penalty shall be passed on those found guilty of complicity in the crime. Person(s) found guilty of abetting and/or privy to such information shall be sentenced to between 3 and 7 years' imprisonment or banishment.

March 2015 — 11 days after the verdict. Therefore, the author was substantively unable to lodge an appeal within the 10-day deadline established by the Judicature Act.

2.18 On 30 March 2015, the People's Majlis (the country's parliament) passed the Bill on Amendment to the Prison and Parole Act,[5] banning all prisoners from holding leadership positions in political parties.

2.19 In April 2015, the author submitted his case to the Working Group on Arbitrary Detention. On 4 September 2015, the Working Group found that the deprivation of liberty of the author was in contravention of articles 9, 14, 19, 22 and 25 of the Covenant and was therefore arbitrary, and requested the State party to take the necessary steps to remedy the author's situation.[6] The Working Group considered that the adequate remedy would be to release the author immediately and grant him compensation in accordance with article 9 (5) of the Covenant.

2.20 In September 2015, the Prosecutor General filed an appeal on the author's behalf before the Supreme Court, though not at his request. The author responded by filing his own appeal to the Supreme Court on 20 December 2015. However, the Supreme Court only heard the Prosecutor General's appeal. On 27 June 2016, the Supreme Court confirmed the author's conviction. The author submits that none of the arguments raised by him were addressed by the Supreme Court. The Supreme Court found that the author had had adequate time to prepare a defence during the criminal proceedings, even though he had only had a total of 19 days from the time that the Prosecutor had brought the new charges of terrorism until his conviction. The Court reasoned that the author, and his lawyers who had represented him since the original criminal proceedings, had known since 2012 that he was accused of the alleged illegal detention of a Chief Justice.

2.21 The author argues that international organizations, States and well-known non-governmental organizations (NGOs) expressed their concerns about the lack of a fair trial in the author's case,[7] and that due to international pressure, the author was released on medical leave in January 2016 and was permitted to travel to the United Kingdom of Great Britain and Northern Ireland for treatment. On 19 May 2016, the author was granted political asylum by the United Kingdom. The author also submits that at the time that his second communication was submitted to the Committee, his sentence had not been commuted and he was still considered a criminal convicted of terrorism and all other restraints on his liberty were in effect, including restrictions on his right to participate in political elections. As a result, he is subject to a 16-year disqualification from running for political office under the Constitution, and he is banned from holding a leadership position in a political party, under an amendment to the Prison and Parole Act.

2.22 The author claims that all domestic remedies available in the State party have been exhausted. At the time that communication No. 2851/2016 was submitted to the Committee, the Supreme Court had not made a decision on whether to grant leave for the appeal submitted by the author, and it was not likely that they would do so, given the already prolonged process and elaborate machinations that characterized the author's case.

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[5] Law No. 14/2013. Section 63 of the Law provides that: "Apart from being a general member of a political party and/or organizations, a person convicted of an offence and serving a jail term shall not have the right to hold office of or participate in any activities organized by the said political party and/or organization for the duration of the sentence served."

[6] See A/HRC/WGAD/2015/33, paras. 97–98.

[7] The author refers to the Office of the United Nations High Commissioner for Human Rights (OHCHR) press release entitled "Conduct of trial of Maldives ex-President raises serious concerns", United Nations High Commissioner for Human Rights, 18 March 2015; OHCHR, press briefing note on Maldives, 1 May 2015, and see also https://news.un.org/en/story/2015/05/497632-maldives-un-rights-office-says-trial-former-president-politicized-unfair; the press release of the Special Rapporteur on the independence of judges and lawyers, of 19 March 2015; European Parliament resolutions No. 2015/2662(RSP) of 30 April 2015, and No. 2015/3017(RSP); European Union, statement by the Spokesperson on the conviction of former President of the Maldives Mohamed Nasheed, 14 March 2015; Transparency International, "Transparency Maldives concerned about legal process for trial of former President Nasheed", 16 March 2015; and International Commission of Jurists, "Maldives: grossly unfair Nasheed conviction highlights judicial politicization", 26 March 2015.

The complaint

3.1 The author claims that the State party has violated his rights under articles 14, 22 and 25 of the Covenant. He claims that his rights under article 14 of the Covenant were violated in the initial criminal proceedings in which he was charged under article 81 of the Penal Code, since he was tried by a biased and non-independent court. Moreover, he was not treated equally before the courts due to his political status. The author submits that the judiciary, including the Supreme Court, lacked independence. Likewise, the composition of the Judicial Service Commission was inadequate and very politicized, affecting the independence and impartiality of the judiciary.[8] He also refers to the report of the Special Rapporteur on the independence of judges and lawyers, and points out its conclusion that the constitutionality of the Magistrates' Court was questionable and that the bench of judges that was constituted to hear the author's case also seemed to have been set up in an arbitrary manner, without following procedures prescribed by law.[9]

3.2 The original criminal proceedings against the author were politically motivated and were instituted in order to prevent him from running in the 2013 presidential elections. In the particular circumstances of his case, the prosecution amounted to a violation of his rights under article 25 of the Covenant. The judicial proceedings against him were used as a means of preventing him from campaigning for elections and, together with the measures imposed on him, were a form of unreasonable restriction upon his ability to take part in the conduct of public affairs. In this connection, the author notes that he was arrested on 9 October 2012 during a campaign trip on the island of Fares-Maathodaa, and he was brought to Dhoonidhoo Prison on 5 March 2013, just prior to his departure for another campaigning trip; that the Magistrates' Court and the Department of Immigration denied his requests to be authorized to travel to other islands and abroad in connection with the political campaign; that on 29 May 2013 the High Court unexpectedly cancelled the hearing three hours before it was due to begin, even though he had come back to Malé to attend it, cutting short his campaign trip in Raa Atoll; and that the judicial authorities denied his request to be given the schedule of the court hearings so that he could plan his campaigning trips accordingly.[10] He also points out that a former minister responsible for human rights in Maldives stated in a letter addressed to the Chief Justice, A.F.H., that she had been asked by a Supreme Court judge to file a case against the author to prevent him from running for the presidency in 2013.

3.3 Furthermore, the author claims that his right to stand for elections under article 25 of the Covenant was also arbitrarily and unreasonably restricted as a result of his arbitrary detention, prosecution and conviction on charges of terrorism, without a fair trial (see para. 2.16 above).[11] Those judicial proceedings amounted, in practice, to political persecution of the author by the then-President of the State party.[12] The author refers to the Committee's general comment No. 25 (1996) on participation in public affairs and the right to vote and notes that any conditions applied to the exercise of the rights protected by article 25 of the Covenant should be based on objective and reasonable criteria and established by law. Additionally, persons who are otherwise eligible to stand for election "should not be excluded by unreasonable or discriminatory requirements … or by reason of political affiliation".[13] In his case, due to the sentence of 13 years of imprisonment for the crime of terrorism, the author was prohibited from running for political office. The author adds that the political context in which the Bill on Amendment to the Prison and Parole Act was passed by the People's Majlis on 30 March 2015 suggests that the amendment specifically targeted him, as the main political opponent of the President of Maldives, in particular given that it was put through the legislature only two weeks after his conviction. The author has essentially been subjected to a 16-year disqualification from running for political office.

[8] The author refers to A/HRC/23/43/Add.3, paras. 39, 41 and 44; and CCPR/C/MDV/CO/1, para. 20.

[9] See A/HRC/23/43/Add.3, paras. 30–32.

[10] The author refers to the report of the Bar Human Rights Committee of England and Wales entitled "The prosecution of former Maldivian president Mohamed Nasheed: report of BHRC's second independent legal observation mission" (see footnote 1 above).

[11] See footnote 7 above.

[12] The author refers to Working Group on Arbitrary Detention opinion No. 33/2015, para. 97.

[13] The author refers to the Committee's general comment No. 25, paras. 4 and 15.

as the Constitution prohibits individuals who have completed a prison sentence of more than one year from running until three years after their release.[14] Therefore, he will be unable to participate in presidential elections until after 2031. By comparison, if he had been convicted under the initial charges, of 2012, he would have only been barred from running for political office until 2021. The author refers to the findings of the Working Group on Arbitrary Detention and argues that his conviction and detention in March 2015 on charges of terrorism were arbitrary, and that during the trial the authorities failed to provide any supporting evidence for his conviction.[15] Furthermore, the Working Group concluded that there had been a violation of the author's rights to freedom of opinion and expression, freedom of association, and freedom of political participation, under articles 19, 22 and 25 of the Covenant, and that the author had been targeted on the basis of his political opinions.[16]

3.4 The author maintains that if the underlying basis for a restriction on political participation is a criminal conviction that is later found to be arbitrary, this creates a prima facie presumption of unreasonableness for the purposes of article 25 of the Covenant.[17] In his case, the Working Group on Arbitrary Detention found his conviction, sentence and detention to be arbitrary. In this regard, the author requests the Committee to accept the Working Group's findings as valid in order to proceed to the examination of his claims under article 25. Against this background, he concludes that his arbitrary conviction and sentence are not reasonable and that they have been applied as a means to prevent him from participating in the presidential elections. The State party's actions are targeted and systematic, and have been used to discredit the author's image, suppress his involvement in national politics, silence his voice, and ultimately prevent him from participating in the 2018 presidential elections.[18]

3.5 The author claims that his right to freedom of association under article 22 of the Covenant has also been arbitrarily restricted due to his terrorism conviction and the adoption of the Bill on Amendment to the Prison and Parole Act. This amendment effectively bans him, as the principal political opponent of the current president, from leading his political party. He also claims that the bill was passed specifically to target him.

State party's observations on admissibility and the merits

4.1 On 13 December 2017, the State party submitted its observations on the admissibility and the merits of communication No. 2851/2016, only. The State party maintains that the communication is manifestly ill-founded, since the author's allegations are factually incorrect and his detention is justified and in accordance with domestic and international law. Thus, since the detention of the author cannot be deemed arbitrary, the restrictions on his rights to political participation and freedom of association are justified and reasonable.

4.2 The State party maintains that contrary to the allegation made by the author, on 7 February 2012 he voluntarily resigned from office.[19]

4.3 Concerning the criminal proceedings against the author, the State party notes that upon appeal, on 27 June 2016, the Supreme Court ruled, inter alia, that the author had been

[14] Article 109 (f) of the Constitution.

[15] The author refers to Working Group on Arbitrary Detention opinion No. 33/2015, paras. 94–95 and 110–112.

[16] The author refers to Working Group on Arbitrary Detention, opinion No. 33/2015, para. 98; the 13 March 2015 statement on the trial of former President Nasheed in Maldives, by the spokesperson of the Department of State of the United States of America; and Amnesty International, "Maldives: 13 year sentence for former president 'a travesty of justice'", 13 March 2015.

[17] The author refers to *Dissanayake v. Sri Lanka* (CCPR/C/93/D/1373/2005), para. 8.5; *Chitko Bwalya v. Zambia* (CCPR/C/48/D/314/1988); and *Sudalenko v. Belarus* (CCPR/C/100/D/1354/2005).

[18] The author refers to Working Group on Arbitrary Detention opinion No. 33/2015, para. 97. See also footnote 7 above.

[19] The State party refers to the report of the Commission of National Inquiry, of 30 August 2012, and maintains that its findings were endorsed by the Commonwealth, the European Union, the Foreign and Commonwealth Office of the United Kingdom, and the Department of State of the United States.

afforded the right to adequate time and facilities to prepare his defence, including being assisted by legal counsel of his own choosing, and had been afforded a fair trial. The Supreme Court also stated that as he had failed to exercise his right to appeal within the stipulated period, the merits of the trial court judgment had become final. It also upheld the High Court's decision not to grant leave for the appeal lodged by the Prosecutor General, based on the fact that it was the Prosecutor General and not the author who lodged the appeal.

4.4 The State party points out that the author's allegations under articles 22 and 25 of the Covenant are founded upon the opinion rendered by the Working Group on Arbitrary Detention. Nevertheless, the State party does not accept the Working Group's finding that the author's detention was arbitrary and in breach of international law. In this regard, the State party provides detailed objections to the Working Group's finding, and requests the Committee to "deliberate" on the issues raised by the author in his communication with respect to his arrest, detention, trial and conviction, separately from the opinion of the Working Group. Notably, the State party submits that the decision to convict the author was in accordance with the law, as he had used the military illegally to abduct a serving judge of the Criminal Court and hold him incommunicado for 21 days. Although the author denies unlawful arrest of the judge to the Committee, this does not align with various public statements that he delivered, admitting that the arrest had been made in response to his wishes.[20] The State party also maintains that a wealth of documentary evidence was put forward at trial and a number of witnesses were heard before the author was convicted.

4.5 The State party maintains that the author was afforded a fair trial. The arrest warrant against him was issued by the Criminal Court upon request from the Prosecutor General, pursuant to the powers accorded to the Prosecutor General under article 223 (e) of the Constitution and under section 15 of the Prosecutor General's Act (Law No. 9/2008). All measures were taken to ensure the independence of the court, as well as of the bench hearing of the author's case, at all stages of the proceedings.

4.6 The author's allegation that his lawyers were barred from attending the first day of proceedings is unfounded. His lawyers failed to appoint and register themselves as legal counsel two days prior to the hearing, as is required under regulation No. 02/2014 (the regulation on trial advocacy) of the Criminal Court of Maldives, formulated pursuant to the Judicature Act (Law No. 22/2010). Had counsel complied with the registration requirements, they would have been afforded every opportunity to act for and represent the author throughout the trial and subsequent appeals.

4.7 The author was given adequate time to prepare his defence. The State party notes that the facts date back to February 2012 and that the prosecution's evidence was served on the author and his legal representatives during the first set of proceedings. The author and his legal team, which remained unchanged, had been given a great deal of time to prepare for trial. The only material change was the legal qualification of the charge as an offence of terrorism.

4.8 Concerning the length of the proceedings, the State party maintains that the author had previously filed an application, on 27 April 2014, requesting that the Criminal Court speed up the proceedings. It is therefore rather paradoxical that he would subsequently argue that the proceedings were rushed. Moreover, since the author had demonstrated his unwillingness to cooperate with the relevant authorities, a speedy trial was required.

4.9 The Criminal Court did not impede the author from cross-examining prosecution witnesses, but put reasonable limitations on questions that were deemed irrelevant being put to the witnesses. Likewise, the author was not prevented from calling any witness in his defence. After it became evident to the Court that none of the witnesses presented by him were able to give evidence as to the circumstances of the case, the Court ruled that the

[20] The State party refers, inter alia, to an interview given to BBC during the *Hardtalk* programme, broadcast on 14 February 2012.

witnesses proposed by the author were not relevant to the charges.[21] Although the Court did not prevent him from calling additional witnesses, he failed to do so.

4.10 Under the law of the State party, any convicted person has the right to appeal to the High Court within 10 working days of the judgment being passed, and subsequently to appeal against the High Court's decision, within 60 working days, to the Supreme Court. The author was convicted on 13 March 2015 by the Criminal Court, which gave him until 29 March 2015 to lodge his appeal at the High Court. However, he refused to avail himself of that right, let the appeal period lapse, and instead requested the Prosecutor General to file an appeal on his behalf on 30 July 2015. The State party notes that subsequent to the Prosecutor General's appeal to the Supreme Court, the author also appealed his conviction, on the basis of substantive legal errors and procedural violations, and that at the point that the State party's observations were submitted to the Committee, the Supreme Court had not made a decision on whether to grant leave for that appeal.

4.11 With regard to the author's allegations of violations of articles 22 and 25 of the Covenant, the State party maintains that pursuant to article 109 (f) of the Constitution[22] as well as to the Presidential Elections Act (Law No. 12/2008), the author's current conviction results in his disqualification from running in the presidential elections for the term of his sentence and for an additional three years. The State party also notes that the charges brought against the author were lodged by the Prosecutor General, who is independent and impartial in the course of his or her duty. Notably, the review in the charges in 2012, from charges of "illegal detention" to charges of "terrorism", were not politically motivated, but commensurate with the acts he had committed (see para. 4.4 above).

4.12 The amendment to the Prison and Parole Act (Law No. 10/2015) — the first amendment to the Prison and Parole Act (Law No. 14/2013) — was not specifically targeted at hindering the author's political activity and participation. Moreover, the amendment affords the author the right to political participation and freedom of association, as it allows him to be a member of a political party. In this connection, the State party points out that similar restrictions on civil liberties are exercised in all jurisdictions as a consequence of a criminal conviction, and that such limitations are necessary in democratic societies to ensure public order and accountability and to safeguard the public interest.

4.13 The author still has the opportunity to request clemency, which, if granted, will make him eligible to run for president. He becomes eligible to request leniency for his sentence under the Clemency Act (Law No. 2/2010) once he has served one quarter of the sentence, under section 7 of the Act. Additionally, section 29 (c) of the Clemency Act affords the President of Maldives the executive power to grant clemency in certain circumstances.

4.14 In the light of the foregoing, the State party maintains that the author's rights to political participation and freedom of association have not been violated. In fact, within the ambit of the amendment to the Prison and Parole Act, the author may remain a member of a political party of his own choice, exercise his right to vote, exercise his rights in the political decision-making of the nation, and go so far as advocate for a political view and/or party of his own choosing. The extent of his right to political participation conforms to the notion of direct participation in the conduct of public affairs, and therefore, the amendment to this Act conforms to the test of reasonableness.

Author's comments on the State party's observations

5.1 On 22 January 2018, the author submitted his comments on the State party's observations on the admissibility and the merits of the communication. The author reiterated his allegations that the State party violated his rights under articles 22 and 25 of the Covenant, by disqualifying him from running for office on the basis of an arbitrary

[21] The State party refers to *Wright v. Jamaica* (CCPR/C/45/D/349/1989), para. 8.4.

[22] It is stated in article 109 that: "A person elected as President shall have the following qualifications" ... (f) "not have been convicted of a criminal offence and sentenced to a term of more than twelve months, unless a period of three years has elapsed since his release, or pardon for the offence for which he was sentenced".

arrest, trial, conviction and sentence, and prohibiting him from being the leader of his political party.

5.2 As to the facts of the case, the author submits that during the criminal proceedings there was no specific documentation or evidence before the Criminal Court which showed that he ordered the arrest of the Chief Justice, Judge A.M. He also submits that the politically motivated case against him remained inactive between July 2013 and January 2015, when the Jumhooree Party, a political party whose backing was crucial to the government coalition's narrow 2013 victory, left the ruling coalition and joined the author and the Maldivian Democratic Party in the opposition.

5.3 The author submits that conformity of his arrest, detention, trial, conviction and imprisonment, with the State party's human rights obligations, including the Covenant, was thoroughly examined by the Working Group on Arbitrary Detention (see para. 2.19 above), whose findings are confirmed by reports of States, international organizations and well-known NGOs. The author reiterates that his arrest, trial, conviction, sentencing and imprisonment were arbitrary and in violation of the Covenant.

5.4 The author's right to the presumption of innocence was systematically violated and the actions of the Criminal Court indicated that the result of the trial was predetermined.[23]

5.5 The author was arrested on the basis of a defective arrest warrant that was not in conformity with the law. Firstly, the warrant was issued at the request of the Prosecutor General, when normally, only a criminal investigation agency, such as the police, requests arrest warrants from the Criminal Court. Neither the Constitution nor the Prosecutor General's Act gives the Prosecutor General the power or authority to request arrest warrants. The fact that the Prosecutor, acting outside of his authority, took the time to personally request the arrest warrant is both irregular and strongly suggests that his decision was politically motivated. Secondly, the warrant, issued on 22 February 2015, omitted critical information, including the place where the author should be detained, the period of his detention, and when he was to be brought to court. Therefore, the police did not have the authority to arrest or detain him. To cover up its error, the Court issued a second warrant the following day, ordering the police to present the author at a specific time. Finally, the justification for issuing an arrest warrant pending trial was without merit. It was stated on the warrant that the author was being detained on suspicion that he was "likely to abscond to avoid facing terrorism charges". However, he had never absconded from court, nor taken the opportunity to flee or go into hiding, during numerous opportunities to travel abroad in the preceding few weeks. The author attempted to raise these procedural errors and irregularities with the High Court, requesting a hearing to consider the legality of his arrest and request bail. The High Court scheduled a hearing regarding the issue of the first arrest warrant for 15 March 2015 — two days after he had been summarily convicted and sentenced in the Criminal Court.

5.6 The judges in charge of the author's trial lacked independence and impartiality. Two of the three judges presiding over his case were not only present at Judge A.M.'s arrest and were close friends of Judge A.M., they also submitted witness statements on behalf of Judge A.M. to the police and the country's Human Rights Commission, and were listed as witnesses for the prosecution in the author's case, when the charges were still framed as "illegal detention".[24] Despite the author's request, these judges refused to recuse themselves. The judges demonstrated bias against the author during the trial. For instance, they refused to allow the author to call any witnesses in his defence, and they limited the cross-examination of five out of the nine prosecution witnesses; they themselves were leading State officials who were witnesses through their testimony; and they called Judge A.M.,

[23] See Working Group on Arbitrary Detention, opinion No. 33/2015, para. 24; the press release of the Special Rapporteur on the independence of judges and lawyers (as per footnote 7 above); and Amnesty International, "Maldives should end the assault on human rights", 5 May 2015.

[24] Working Group on Arbitrary Detention, opinion No. 33/2015, para. 103 (ii); and the Bar Human Rights Committee of England and Wales, "Trial observation report: prosecution of Mohamed Nasheed, former President of the Republic of the Maldives" (April 2015), pp. 5 and 39. See also footnote 7.

their boss, as a witness to testify for the prosecution.[25] The alleged victim, Judge A.M, was very much present and involved in all affairs of the court in general, and in the author's case in particular.[26] Furthermore, there was a lack of legal basis for the judges to convict the author, since the author's alleged conduct — an unlawful arrest — does not satisfy the actus reus element under the Prevention of Terrorism Act 1990, which itself is a violation of international law and should be invalid because of its vagueness. Even assuming that the alleged action did satisfy the definition of terrorism, there was no evidence presented in the court that the author ordered the arrest of Judge A.M.

5.7 The Prosecutor General was biased and the prosecution of the author was politically motivated. The Prosecutor General was also a witness to the arrest of Judge A.M., and was himself, at the time, a judge in the Criminal Court of Maldives.[27] Despite the author's request, the prosecution team submitted that the Prosecutor General would recuse himself if and when he felt it was necessary, but he never did. Against this background, the lack of prosecutorial impartiality and independence, together with the politically motivated and selective nature of the author's prosecution, violated the principle of equality before the courts as enshrined in article 14 (1) of the Covenant.

5.8 The author did not have adequate time and facilities for the preparation of his defence, since, inter alia, only 20 days elapsed from his arrest to his sentencing; proceedings on the merits began the day after the author's arrest, and when he was notified of the new charges the author and his counsel were denied access to evidence; and the author's counsel was absent from key hearings in the case.[28] He was also arbitrarily denied the right to present any witnesses and unable to cross-examine witnesses. For instance, his defence counsel was prohibited from questioning the credibility of the prosecution's witnesses to establish bias or otherwise discredit their testimony. Cross-examination was limited in this fashion for five out of the nine witnesses presented by the prosecution.[29] The author was denied the right to be assisted by counsel throughout the whole proceedings. Likewise, in practice, he had no opportunity to file an appeal against his sentence and conviction, which was denied in part because of a sudden change by the Supreme Court of the appeal rules, and the delay in providing the trial record to the defence (see para. 2.17 above).[30] The Supreme Court shortened the deadline for the filing of appeals to 10 days, and the author was only provided with an incomplete and inaccurate trial report, 11 days after the judgment had been rendered.

5.9 The author refers to the findings of the Working Group on Arbitrary Detention and argues that his detention resulted from the exercise of his rights as a political opposition leader to express views contrary to those of the government authorities, to associate with his own and other political parties, and to participate in public life in Maldives.[31] Thus, it constituted a violation of his right to freedom of opinion.

5.10 In the light of the above, the author reiterates that his arbitrary and politically motivated detention, trial, sentence and conviction on charges of terrorism, together with the amendment to the Prison and Parole Act, constituted a violation of his rights under articles 22 and 25 of the Covenant. He points out that his prosecution and detention were a result of his association with the Maldivian Democratic Party opposition party and of his participation in the conduct of public affairs as leader of that party, and were an attempt to

[25] Bar Human Rights Committee of England and Wales, "Trial observation report", p. 53.

[26] Ibid., p. 38.

[27] Working Group on Arbitrary Detention, opinion No. 33/2015, para. 103 (ii); and the press release of the Special Rapporteur on the independence of judges and lawyers (as per footnote 7 above).

[28] Working Group on Arbitrary Detention, opinion No. 33/2015, paras. 103 (iv), (v) and (vi) and 104 (iv); the OHCHR press release (as per footnote 7 above); and the Bar Human Rights Committee of England and Wales, "Trial observation report" (as per footnote 24 above), pp. 5 and 46.

[29] Working Group on Arbitrary Detention, opinion No. 33/2015, para. 103 (iii); the OHCHR press release (as per footnote 7 above); the press release of the Special Rapporteur on the independence of judges and lawyers, of 19 March 2015; the Bar Human Rights Committee of England and Wales, "Trial observation report" (as per footnote 24 above), p. 53; Amnesty International, "Maldives should end the assault on human rights" (as per footnote 23 above).

[30] Working Group on Arbitrary Detention, opinion No. 33/2015, paras. 103 (viii) and 104 (viii).

[31] Working Group on Arbitrary Detention, opinion No. 33/2015, para. 97.

suppress their involvement in national politics in violation of his right to freedom of association and to take part in public affairs and be elected without unreasonable restrictions.[32] He also submits that the State party has failed to provide any independent report from an international organization, a State, an NGO or the media to support its assertion that his prosecution was not politically motivated. On the contrary, credible reports indicate that the amendment to the Prison and Parole Act was adopted to target him and to prevent him from taking part in political activities. In this connection, the State party has failed to explain how the law prohibiting convicts from political participation is consistent with its obligations under articles 22 and 25 of the Covenant.

State party's failure to cooperate with the procedure concerning communication No. 2270/2013

6. In notes verbales dated 17 July 2013, 11 February 2015, 25 November 2015 and 1 February 2017, the Committee requested the State party to submit to it information on the admissibility and merits of communication No. 2270/2013. The Committee notes that this information has not been received. The Committee regrets the State party's failure to provide any information with regard to the admissibility or the substance of the author's claims. It recalls that article 4 (2) of the Optional Protocol obliges States parties to examine in good faith all allegations brought against them and to make available to the Committee all information at their disposal. In the absence of a reply from the State party, due weight must be given to the author's allegations, to the extent that they are substantiated.[33]

Issues and proceedings before the Committee

Consideration of admissibility

7.1 Before considering any claim contained in a communication, the Committee must decide, in accordance with rule 93 of its rules of procedure, whether the communication is admissible under the Optional Protocol.

7.2 The Committee has ascertained, as required under article 5 (2) (a) of the Optional Protocol, that the same matter is not being examined under another procedure of international investigation or settlement.

7.3 The Committee notes the author's claim that he has exhausted all effective domestic remedies available to him. In the absence of any objection by the State party in that connection, the Committee considers that the requirements of article 5 (2) (b) of the Optional Protocol have been met.

7.4 The Committee notes the author's claims under article 14 of the Covenant in communication No. 2270/2013 regarding the initial criminal proceedings, in which he was charged under article 81 of the Penal Code; and his claims that he was tried by a biased and non-independent court, and that he was not treated equally before courts due to his political status. The Committee also notes that, although in communication No. 2851/2016 the author did not expressly raise a claim that article 14 was violated within the second part of the same judicial proceedings in 2015, in which the author was finally sentenced and convicted on charges of terrorism, both parties have provided the Committee with allegations and arguments in relation to the fairness of that part of the judicial proceedings. The Committee observes that the author has referred to relevant reports and provided sufficient detailed information concerning the fairness of both proceedings. Accordingly, the Committee considers that the author's claims under article 14 have been sufficiently substantiated for the purpose of admissibility.

7.5 The Committee notes the State party's arguments that the author's claims under articles 22 and 25 of the Covenant, in relation to the judicial proceedings in which he was sentenced and convicted on charges of terrorism, and accordingly barred from political office, are manifestly ill-founded. However, the Committee observes that the author has

[32] Bar Human Rights Committee of England and Wales, "Trial observation report" (as per footnote 24 above), p. 22. The author also refers to the Committee's general comment No. 25, para. 26.

[33] See *Samathanam v. Sri Lanka* (CCPR/C/118/D/2412/2014), para. 4.2.

sufficiently substantiated these claims, for the purpose of admissibility, and has provided the Committee with relevant and detailed information. The Committee therefore considers these claims admissible.

7.6 As all admissibility requirements have been met, the Committee declares the author's claims under articles 14, 22 and 25 of the Covenant admissible and proceeds with its consideration of the merits.

Consideration of the merits

8.1 The Committee has considered the case in the light of all the information submitted to it by the parties, in accordance with article 5 (1) of the Optional Protocol.

8.2 The Committee takes note of the author's allegations that his rights under article 14 of the Covenant were violated within the initial criminal proceedings in which he was charged under article 81 of the Penal Code, since the prosecution was politically motivated, the Magistrates' Court was not legally competent and independent, and the bench of judges that had been constituted to hear his case had been established in an arbitrary manner. In that regard, the author argues that the Judicial Service Commission established a special court in the Magistrates' Court and appointed three special judges in order to conduct his trial; that the Judicial Service Commission was controlled by the then-government parties and government-aligned individuals, including one who became a candidate in the 2013 presidential elections, as well as members of the judiciary; and that although on 5 December 2012 the Supreme Court held, by majority, that the Magistrates' Court had been established in accordance with the law and could operate as a court of law, the deciding vote in the case was cast by the Chief Judge of the Supreme Court, who was also the President of the Judicial Service Commission, the body that established the Magistrates' Court. The Committee also observes that reports provided by the author[34] indicate that there were serious concerns about the lack of independence of the judiciary, including the Supreme Court, and about the inadequate and politicized composition of the Judicial Service Commission. Those reports also state that the Magistrates' Court was unlawfully constituted and that the bench of judges in charge of hearing the author's case also seemed to have been set up in an arbitrary manner, without following procedures prescribed by law. The State party has not responded to the author's above-mentioned allegations and the findings of the reports provided in support of those claims.

8.3 The Committee further observes that, in 2012, the author was charged under article 81 of the Penal Code with allegedly abusing his power and allegedly ordering the illegal detention of the Chief of Justice of the Criminal Court in Malé. After proceedings had been suspended for a considerable time, in February 2015 the Prosecutor General requalified the charges against the author, based on the same facts, as offences of terrorism under section 2 (b) of the Prevention of Terrorism Act 1990. Three weeks later, on 13 March 2015, the Criminal Court found the author guilty of terrorism and sentenced him to 13 years' imprisonment. The State party maintains that the requalification of charges was not politically motivated and that the author's sentence and conviction were commensurate with the acts he allegedly committed — ordering the military to abduct a serving judge of the Criminal Court and hold him incommunicado for 21 days. The Committee observes, however, that the State party has not explained the legal basis for requalifying the charges against the author and charging him with terrorism. Nor has the State party shown how the author's alleged conduct satisfies the elements of the crime of terrorism under the Prevention of Terrorism Act 1990. Furthermore, it observes that the crime of terrorism as established in section 2 (b) of the Prevention of Terrorism Act (see footnote 4) is formulated in a broad and vague fashion that is susceptible to wide interpretation, as in the author's case, and does not comply with the principle of legal certainty and predictability. The Committee also observes that despite the requalification of charges, the trial started the day after the author's arrest, when he was notified of the charges; that the author was not allowed to be represented by the counsel of his choice because two days were required for counsel to register; and that the Criminal Court delivered its judgment a few weeks later, on 13 March 2015. Although the State party maintains that the facts of the author's case date

[34] See footnotes 1 and 8–10.

back to February 2012, and that his legal team, which remained unchanged, was given sufficient time to prepare for trial during the criminal proceedings, the Committee observes that the State party has not shown that the author was afforded adequate time to prepare his defence after the new charges were notified. Moreover, the Committee observes that the State party has not rebutted the author's allegations that the judges in charge of his trial lacked independence and impartiality since two of the three judges presiding over his case were not only close friends of Judge A.M. and present at his arrest, but they also submitted witness statements on behalf of Judge A.M. to the police and the country's Human Rights Commission, and were listed as witnesses for the prosecution when the charges were still framed under article 81 of the Penal Code. Against this background, the Committee considers that the judicial proceedings in which the author was finally convicted and sentenced for terrorism violated the right to fair trial, and, therefore, that the author's rights under article 14 (1) and (3) of the Covenant were violated.

8.4 The Committee notes the author's allegation that his rights under article 25 were violated since the original criminal proceedings against him were politically motivated and instituted in order to prevent him from running in the 2013 presidential elections. The Committee also notes the author's allegation that his right to stand for election under article 25 of the Covenant was unreasonably restricted as a result of his arbitrary detention and conviction on charges of terrorism in 2015, on the basis of an unfair trial. The author submits that the judicial proceedings were also politically motivated; that his conviction and sentence were an attempt to ultimately prevent him from participating in the 2018 presidential elections, since he has been subjected to a 16-year disqualification from running for political office (until after 2031); and that he is banned from holding a leadership position in a political party under the 2015 amendment to the Prison and Parole Act.

8.5 The Committee also notes the State party's arguments that the author's detention, sentence and conviction cannot be deemed arbitrary and that the restrictions on his rights to political participation and association are therefore justified and reasonable. According to the State party, the author's conviction on charges of terrorism and his subsequent sentence of 13 years' imprisonment were in accordance with the law and were imposed within judicial proceedings in which all judicial guarantees were observed, and were not politically motivated. As a result, the author is disqualified from running in the presidential elections for the term of his sentence and for an additional three years, pursuant to article 109 (f) of the Constitution and to the Presidential Elections Act (Law No. 12/2008). Moreover, in accordance with the amendment to the Prison and Parole Act, the author may, inter alia, exercise his right to vote, exercise his rights in the political decision-making of the nation, and advocate for a political view and/or party of his own choosing.

8.6 The Committee recalls that article 25 of the Covenant recognizes and protects the right of every citizen to take part in the conduct of public affairs, the right to vote and to be elected, and the right to have access to public service. Whatever form of constitution or government is in force, the exercise of these rights by citizens may not be suspended or excluded except on grounds which are established by laws that are objective and reasonable.[35] Persons who are otherwise eligible to stand for election should not be excluded by reason of political affiliation.[36] The Committee also recalls that if a conviction for an offence is a basis for suspending the right to vote or to stand for office, such restriction must be proportionate to the offence and the sentence.[37] The Committee considers that when this conviction is clearly arbitrary or amounts to a manifest error or a denial of justice, or the judicial proceedings resulting in the conviction otherwise violate the right to fair trial, it may render the restriction of the rights under article 25 arbitrary.

8.7 In the case at hand, the Committee observes that although criminal proceedings against the author for charges under article 81 of the Penal Code were suspended in July 2013 and he was ultimately able to run for the presidency in the November 2013 elections, which he narrowly lost, reports indicate that those proceedings raised serious concerns in

[35] See the Committee's general comment No. 25, paras. 3 and 4.
[36] Ibid., para. 15.
[37] See the Committee's general comment No. 25, para. 14, and *Dissanayake v. Sri Lanka*, para. 8.5.

regard to their fairness, appeared designed to prevent the author's participation in the 2013 elections and may have been politically motivated.[18] The State party has not refuted the author's allegations that the judicial proceedings against him, and the measures taken during the proceedings in 2012 and 2013, cumulatively, were used as a means of preventing him from campaigning for the 2013 presidential elections, such as twice arresting him to interrupt campaign trips and denying his request to be authorized to travel to other islands and abroad in connection with the political campaign (see para. 3.2 above). Furthermore, the Committee observes that the judicial proceedings in which the author was finally sentenced and convicted on charges of terrorism were politically motivated, had serious flaws and violated the right to fair trial (see para. 8.3 above). Accordingly, the Committee considers that, in the circumstances of the author's case, the restrictions of his right to stand for office, as a result of the said conviction and sentence, are arbitrary. In the light of the foregoing, the Committee considers that the author's rights under article 25 of the Covenant have been violated by the State party.

8.8 Having concluded that, in the present case, there has been a violation of article 25 of the Covenant, the Committee decides not to examine separately the author's claims under article 22.

9. The Committee, acting under article 5 (4) of the Optional Protocol, is of the view that the information before it discloses a violation by the State party of articles 14 (1) and (3) and 25 of the Covenant.

10. In accordance with article 2 (3) (a) of the Covenant, the State party is under an obligation to provide individuals whose Covenant rights have been violated with an effective remedy in the form of full reparation. Accordingly, the State party is obligated to, inter alia: (a) quash the conviction of Mohamed Nasheed, review the charges against him taking into account the present Views, and, if appropriate, conduct a new trial ensuring all fair trial guarantees; and (b) restore his right to stand for office, including for the office of President. The State party is also under an obligation to take steps to prevent similar violations from occurring in the future, including reviewing its legislation to ensure that any restriction on the right to stand for office is reasonable and proportionate.

11. Bearing in mind that, by becoming a party to the Optional Protocol, the State party has recognized the competence of the Committee to determine whether there has been a violation of the Covenant and that, pursuant to article 2 of the Covenant, the State party has undertaken to ensure to all individuals within its territory or subject to its jurisdiction the rights recognized in the Covenant and to provide an effective and enforceable remedy when it has been determined that a violation has occurred, the Committee wishes to receive from the State party, within 180 days, information about the measures taken to give effect to the Committee's Views. The State party is also requested to publish the present Views and disseminate them widely in the official languages of the State party.

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[18] See A/HRC/23/43/Add.3; and the Bar Human Rights Committee of England and Wales, "The prosecution of former Maldivian president Mohamed Nasheed: report of BHRC's second independent legal observation mission".